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Budget Summary				FTE Position Summary						
	2014-15	Re	quest	2015-17 Change Over Base Year Doubled			Request		2016-17 Over 2014-15	
Fund	Adjusted Base	2015-16	2016-17	Amount	%	2014-15	2015-16	2016-17	Number	%
GPR PR TOTAL	\$82,894,300 <u>1,306,200</u> \$84,200,500	\$88,113,500 <u>1,347,900</u> \$89,461,400	\$94,421,100 <u>1,348,200</u> \$95,769,300	\$16,746,000 <u>83,700</u> \$16,829,700	10.1% 3.2 10.0%	574.85 <u>5.00</u> 579.85	583.85 5.00 588.85	583.85 5.00 588.85	9.00 <u>0.00</u> 9.00	1.6% 0.0 1.6%

Major Request Items

1. STANDARD BUDGET ADJUSTMENTS

GPR	\$3,685,400
PR	83,700
Total	\$3,769,100

Request adjustments to the base totaling \$1,816,900 GPR and Total \$3,769,100 \$41,700 PR in 2015-16 and \$1,868,500 GPR and \$42,000 PR in 2016-17. Adjustments are for: (a) full funding of continuing position salaries and fringe benefits (\$1,181,200 GPR and \$27,000 PR annually); (b) overtime (\$211,400 GPR and \$2,800 PR annually); and (c) full funding of lease and directed moves costs (\$424,300 GPR and \$11,900 PR in 2015-16 and \$475,900 GPR and \$12,200 PR in 2016-17).

2. STANDARD BUDGET ADJUSTMENTS -- PAY PROGRESSION

Request \$880,300 in 2015-16 and \$2,379,800 in 2016-17 for pay progression for assistant state public defenders (ASPD). Funding would be provided to the following appropriations: (a) trial representation (\$809,700 in 2015-16 and \$2,195,600 in 2016-17); (b) appellate representation (\$66,000 in 2015-16 and \$170,200 in 2016-17); (c) private bar and investigator payments, administration costs (\$4,200 in 2015-16 and \$8,900 in 2016-17); and (d) program administration (\$400 in 2015-16 and \$5,100 in 2016-17). While a separate salary adjustments appropriation exists to support pay increases for ASPDs under the pay progression plan, the requested funds would not be placed in this appropriation. Base funding for the salary adjustments appropriation is \$2,018,400.

Under 2013 Act 20, ASPDs are compensated based on a merit-based pay progression plan which consists of 17 hourly salary steps, with each step equal to one seventeenth of the difference between the lowest possible annual salary (\$49,430) and the highest possible annual salary (\$119,472). Notwithstanding the creation of a 17 hourly salary step pay progression plan, the State Public Defender is authorized to: (a) deny annual salary increases to individual ASPDs; and (b) increase the salary of individual ASPDs by up to 10% per year.

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3. PRIVATE BAR COSTS

GPR \$2,818,000

Request \$1,409,000 annually as a re-estimate of funding to pay private bar attorney costs. The State Public Defender employs trial and appellate attorneys who represent clients who qualify for SPD representation. However, staff attorneys do not represent all clients who qualify for SPD representation. Overflow cases and cases in which staff attorneys may have a conflict of interest are assigned to private bar attorneys throughout the state, at a rate of \$40 per hour for time spent related to a case, and \$25 per hour for travel. Base funding for private bar and investigator reimbursements is \$23,155,400.

4. PRIVATE BAR ATTORNEY COMPENSATION

GPR \$8,557,900

Request \$930,000 in 2015-16 and \$7,627,900 in 2016-17 and changes to current law to increase the compensation provided to the private bar attorneys representing SPD clients in the following ways:

a. *Increased trifurcated hourly rate*. Provide \$6,291,400 in 2016-17 and modify current law to increase the rate at which private bar attorneys are compensated from \$40 per hour to \$45 to \$60 per hour. In addition, grant the SPD authority to promulgate rules establishing compensation rates corresponding to certain case types. Under current law, private bar attorneys are compensated at a rate of \$40 per hour for time spent related to a case, regardless of the case type. The increase in hourly compensation would apply to cases assigned on or after July 1, 2016, however costs related to the increase in private bar rates would not be realized until October, 2016, due to a three month time lapse which generally occurs between the opening and closing of misdemeanor cases. The following table identifies the proposed compensation rates for the different case types.

<u>Case Type</u>	Proposed Hourly Compensation Rate
Class A, B, or C felony	\$60
Other life sentence	60
Homicide	60
Juvenile Waiver	60
Sexual Predator	60
Termination of parental rights	60
Chapter 55*	50
Delinquency - felony	50
Felony	50
Revocation	50
Commitment	45
Intake	45
Juvenile (both felony and misdemeanor offenses)	45
Misdemeanor	45
Special proceeding	45
Appellate**	\$45-\$60

^{*}Chapter 55 proceedings are in regards to protective services and placements for individuals with mental illnesses, degenerative brain disorders, developmental disorders, or other like incapacities.

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^{**}Compensation rates for appellate cases would depend on the initial cause of action.

- b. Travel reimbursement. Provide \$406,500 in 2016-17 and modify current law to provide private bar attorneys compensation at a rate of \$25 per hour for time spent in travel related to a case if any portion of the trip requires travelling a distance of more than 30 miles from the attorney's principal office. Under current law, private attorneys are compensated at a rate of \$25 per hour for time spent in travel related to a case only if any portion of the trip is outside the county in which the attorney's principal office is located, or if the trip requires travelling a distance of 30 miles, one way, from the attorney's principal office. The change in travel compensation would apply to travel that occurs on or after July 1, 2016.
- c. Overhead reimbursement. Provide \$930,000 annually and grant the SPD authority to promulgate rules which would provide private bar attorneys who meet an annual caseload threshold an award for overhead costs. The State Public Defender's request would provide \$1,000 to private bar attorneys who complete 26 SPD assigned cases in a year and \$2,000 to private bar attorneys who complete 50 SPD assigned cases in a year.

5. COURT TRANSCRIPTS, DISCOVERY, AND INTER-PRETER FUNDING

GPR \$1,907,000

Request \$953,500 annually to support payments for: (a) transcripts of court proceedings; (b) discovery materials; and (c) interpreters. Base funding for the transcripts, discovery, and interpreters appropriation is \$1,325,700. In recent years, base funding for this appropriation has not been sufficient to fund costs, and as a result the SPD has reallocated funding from the trial representation appropriation and appellate representation appropriation to support the costs of transcripts, discovery, and interpreters. In 2013-14, the SPD incurred \$2,279,200 in transcript, discovery, and interpreter costs, of which \$766,000 was supported through the reallocation of funding and \$187,500 was paid in 2014-15.

6. CHARGING AND SENTENCING ALTERNATIVES

GPR - \$7,531,500

Request -\$2,510,500 in 2015-16 and -\$5,021,000 in 2016-17, and adopt the following law changes in order to reduce the number of SPD appointments. [Estimated annual savings from all requested law changes are halved in 2015-16 due to the fact that private bar attorneys generally bill the SPD six months after being assigned a case.]

a. Provide that for the following misdemeanor violations, if the alleged offender has not previously been convicted of a felony offense and has not been convicted of any similar offense in the previous three years, the prosecutor would be required to offer the alleged offender the opportunity to either complete a diversion program or pay a forfeiture under a stipulated finding of guilt of a non-criminal ordinance violation: (a) misdemeanor criminal damage to property; (b) entry into a locked vehicle; (c) criminal trespass to a dwelling; (d) entry onto a construction site or into a locked building, dwelling or room; (e) theft of property not to exceed \$2,500; (f) fraud valued at not more than \$2,500 on an innkeeper, restaurant keeper, recreational attraction, taxicab operator, or gas station; (g) misdemeanor operating a motor vehicle without consent; (h) issue of worthless checks for the payment of not more than \$2,500; (j) receiving stolen property valued at not more than \$2,500; (k) misdemeanor credit card crimes; (l) retail

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theft if the value of the merchandise does not exceed \$500; (m) lewd and lascivious behavior; and (n) prostitution. The following table identifies the number of estimated cases this law change would affect annually, as well as the estimated reduced costs for the SPD, by criminal violation.

Offense	Cases Annually	2015-16 <u>Savings</u>	2016-17 Savings
			<u></u>
Theft	1,800	\$218,100	\$436,200
Retail Theft	1,700	223,500	447,000
Criminal damage to property	1,000	122,050	244,100
Issue of worthless checks	300	42,600	85,200
Criminal trespass to a dwelling	200	25,600	51,200
Receiving stolen property	200	19,350	38,700
Credit card crimes	100	14,600	29,200
Operating a motor vehicle without consent	100	13,500	27,000
Prostitution	80	9,600	19,200
Lewd and lascivious behavior	50	6,000	12,000
Fraud on an innkeeper, restaurant keeper,			
recreational attraction, taxicab operator, or gas s	station 40	4,400	8,800
Entry onto a construction site or into a locked			
building, dwelling, or room	30	3,550	7,100
Entry into a locked vehicle	30	3,450	6,900
Total	5,630	\$706,300	\$1,412,600

- b. Provide that for all first offense disorderly conduct violations, a prosecutor would be required to offer the alleged offender the opportunity to participate in a diversion program. The SPD estimates that this law change would affect 5,300 cases annually and reduce SPD costs by \$661,700 in 2015-16 and \$1,323,400 in 2016-17.
- c. Provide that the following misdemeanor violations be reclassified as ordinance violations: (a) obstructing an officer, provided the obstruction charge was for giving false information and the false information was corrected before the end of police contact or release; (b) carrying a concealed weapon; and (c) violations enforced by the Department of Natural Resources relating to wild animals and plants (Chapter 29). The SPD estimates that these law changes would affect an estimated 2,200 cases annually and reduce SPD costs as follows for the following reclassifications: (a) obstructing an officer, \$221,800 in 2015-16 and \$443,600 in 2016-17; (b) carrying a concealed weapon, \$53,100 in 2015-16 and \$106,300 in 2016-17; and (c) various provisions under Chapter 29, \$3,300 in 2015-16 and \$6,600 in 2016-17.
- d. Reclassify felony forgery and credit card crimes to misdemeanors if the amount involved is less than \$2,500. The SPD estimates that this law change would affect 800 cases annually and provide the following savings: (a) forgery, \$118,500 in 2015-16 and \$236,900 in 2016-17; and (b) credit card crimes, \$3,600 in 2015-16 and \$7,200 in 2016-17.
- e. Modify current law to provide that possession of marijuana be reclassified as an ordinance violation for first- and second-time offenders and a misdemeanor for third-time offenders, provided that there are no allegations that the individual is manufacturing,

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distributing, or delivering a controlled substance. In addition, provide that possession of drug paraphernalia, except paraphernalia used for methamphetamines, be reclassified as an ordinance violation, provided that there are no allegations that the individual is manufacturing, distributing, or delivering a controlled substance. The SPD estimates that this law change would affect 2,400 cases annually and reduce SPD costs by \$512,900 in 2015-16 and \$1,025,800 in 2016-17.

- f. Modify current law to provide that the unauthorized use of an individual's, or entity's, identifying information be reclassified as an ordinance violation for first- and second-time offenders and a misdemeanor for third time offenders, provided that the unauthorized use of the identifying information is clarified within 24 hours. This law change would affect an estimated 700 cases annually and reduce SPD costs by \$187,100 in 2015-16 and \$374,300 in 2016-17.
- g. Decriminalize consensual sexual conduct with a minor when the age difference is less than three years and the only basis for the charge is that the minor is too young to legally consent. The SPD estimates that this law change would affect 70 cases annually and reduce SPD costs by \$42,200 in 2015-16 and \$84,300 in 2016-17.

7. SENTENCE MODIFICATIONS

GPR \$473,200

Request \$236,600 annually for private bar and investigator reimbursement, and modify current law to permit the SPD broader discretion to participate in prisoner sentence modification motions. Under current law, the SPD is generally prohibited from providing legal services or assigning an attorney for a motion to modify a prisoner's sentence unless the motion is: (a) part of a direct appeal to the Court of Appeals; or (b) filed in lieu of a direct appeal within 20 days of sentencing to the sentencing court for sentence modification.

8. PUBLIC DEFENDER INDIGENCY STANDARD

Request that the SPD indigency standard be linked to the Wisconsin Works (W-2) financial eligibility requirements for an employment position as it was under 2009 Act 164. As a result, the amount of gross income of an individual considered available to pay the costs of legal representation could change annually based on the amount of an individual's gross income in excess of 115% of the most recent federal poverty guideline. [Under 2011 Act 32, available gross income was permanently set at amounts in excess of 115% of the 2011 federal poverty guideline.]

Request that assets considered available to pay the costs of legal representation would be linked to the W-2 asset standard, except that for purposes of determining eligibility to receive SPD representation only the first \$30,000 of the equity value of a home that serves as the individual's homestead would be excluded from consideration when determining assets available to pay the costs of legal representation. [Under 2011 Act 32, an individual's assets considered available to pay for legal representation was permanently set at the 2011 W-2 asset standard. As a result, assets that exceed \$2,500 in combined equity value are considered available to pay for legal representation, except that up to \$10,000 in the equity value of vehicles as well as the first

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\$30,000 of the equity value of a home that serves as the individual's homestead are excluded from consideration.]

9. TREATMENT ALTERNATIVES AND DIVERSION

	Funding	Positions
GPR	\$1,193,100	9.00

Request \$553,400 in 2015-16 and \$639,700 in 2016-17, and 9.0 positions annually, to add 5.0 assistant state public defenders (ASPD), 3.0 client service specialists, and 1.0 program and policy analyst to assist with treatment alternatives and diversion (TAD) programs. Further, in order exempt the 5.0 requested ASPDs from caseload requirements, modify current law to provide that the number of full-time ASPDs which may be exempt from caseload requirements is increased from 10 full-time ASPDs to 15 full-time ASPDs.

In addition to their caseload work, ASPDs currently assist with diversion programs through participation in local criminal justice coordinating councils, TAD programs, and other problem solving courts. The requested ASPDs would assume these non-caseload responsibilities. The requested client service specialists would provide support for attorneys and SPD clients participating in TAD funded problem solving courts, and would have the following responsibilities: (a) gather pertinent information about individual clients; (b) investigate placement, treatment, and educational opportunities; and (c) prepare written recommendations for use at sentencing or revocation hearings. Finally, under the request, the program and policy analyst would not only provide research and assessment which would inform as to the best use of SPD resources in relation to TAD programs, but also research various case types (such as civil commitments for sex offenders, sexual assaults, and internet crimes against children) to assist the SPD address the criminogenic needs of its clients.

10. INFORMATION TECHNOLOGY -- CASE MANAGEMENT SYSTEM

GPR \$1,550,000

Request \$950,000 in 2015-16 and \$600,000 in 2016-17 to replace the SPD's current case management system. The current case management system, called eOPD, is web-based and was implemented in 2002. The SPD estimates that replacing eOPD would result in \$350,000 in one-time costs in 2015-16, and \$600,000 in ongoing annual costs. One-time costs would include converting data from eOPD to the new case management system, and ongoing annual costs would include case entry, case management, and customization.

11. INFORMATION TECHNOLOGY -- MOBILE TECHNOLOGY

GPR \$742.800

Request \$742,800 in 2016-17 in order to purchase 388 laptop computers and provide each laptop wireless internet connection and connection to the state's virtual private network (VPN). The 388 laptops would be used by attorneys (323), investigators (46), and client services specialists (19) who spend the majority of their time working at remote sites (such as courthouses, jails/prisons, investigative locations, and client homes) or traveling to sites away from their offices. The SPD's current computer inventory is comprised of 670 desktop computers which were purchased in 2011 and 2012.

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